REMARKS

Applicants respectfully request reconsideration of the present application in view of the reasons that follow.

No claims are currently being amended. Claims 9-11 have been withdrawn from consideration.

Of the claims under consideration, claims 1-8 and 12 are now pending in this application.

Rejections under 35 U.S.C. § 103

Claims 1-8 and 12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Publication No. US 2003/0021745 A1 to Chen (hereafter "Chen '745"). Claims 1-8 and 12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,518,213 to Yamamoto et al. (hereafter "Yamamoto et al. '213"). Applicants respectfully traverse these rejections for at least the following reasons.

Neither Chen '745 not Yamamoto et al. '213 is prior art to the present invention as claimed in claims 1-8 and 12 for the purposes of 35 U.S.C. § 103.

Chen '745 is not prior art to claims 1-8 and 12 of the present application. The present application claims foreign priority to Japanese application 2000-341458, filed on November 9, 2000, ***prior*** to the filing date of Chen '745 of April 13, 2001. Claims 1-8 and 12 are supported by the disclosure of Japanese application 2000-341458. Applicants also submit herewith a certified English translation of Japanese application 2000-341458, perfecting their right to priority. Thus, Chen '745 is not prior art to claims 1-8 and 12 of the present application, and applicants respectfully request that the rejection based on Chen '745 be withdrawn.

Yamamoto et al. '213 is not prior art to the present application for the purposes of 35 U.S.C. § 103. Yamamoto et al. '213 is available as prior art only under 35 U.S.C. § 102(e). Both the present application and Yamamoto '213, however, were owned by Nissan Motor Co., Ltd at the time the invention of the present application was made. Thus, Yamamoto et al. '213 is not available as prior art for the purposes of 35 U.S.C. § 103 (See 35 U.S.C. § 103(c)).

Moreover, Chen '745 does not disclose the present invention as claimed, or its attendant advantages. For a disclosure of the different limitations as recited in the present claims, the Office Action points respectively to a number of different claims. Noteworthy, the Office Action does not point to the specification of Chen '745 as is proper, but only to the claims. Moreover, the Office Action points to *different* claims (claims 29, 41, 44 and 86) as disclosing respective limitations of the present claims, not a single claim.

Even if claims 29, 41, 44 and 86 of Chen were combined, the combination still would not suggest all the features as recited in independent claims 1 and 8. Specifically, claim 1 recites "a content of the compound of the at least one metal in said second catalytic layer being larger than that in said first catalytic layer" where the compound is "a compound of at least one metal selected from the group consisting of alkali metal, alkaline earth metal and rare earth metal." Claim 8 recites that the difference in concentration of the compound (of at least one metal selected from the group consisting of alkali metal, alkaline earth metal and rare earth metal) between the surface section and the inner section of the catalytic layer is larger than 10%. The Office Action points to parts (a)(iv) and (b)(ii) in claim 29 as disclosing this feature. Parts (a)(iv) and (b)(ii) in claim 29, however, respectively recite ranges of a SOx sorbent component in a first layer and in a second layer. Only some of the points in the two ranges provide that the SOx sorbent of the second layer is greater than that of the first layer. Thus, Chen does not disclose that the SOx sorbent of the second layer is greater than that of the first layer.

Furthermore, Chen '745 fails to realize the advantages of the present invention as recited in the claims. Providing that the content of the compound of the at least one metal in the second catalytic layer is larger than that in the first catalytic layer (as recited in claim 1) provides advantages in preventing sulfur poisoning (see present specification, page 9, lines 6-8, for example), while still allowing that NOx can be effectively absorbed, released and reduced. Chen '745 does not suggest that the compound as recited in the context of claim 1 is contained in a larger amount in a second (outer) layer than in a first (inner) layer of the catalyst with the resultant advantage that sulfur poisoning is prevented, and thus fails to render the present claim 1 obvious.

As mentioned above, independent claim 8 recites that the difference in concentration of the compound (of at least one metal selected from the group consisting of alkali metal,

alkaline earth metal and rare earth metal) between the surface section and the inner section of the catalytic layer is larger than 10%. Thus, the concentration of the compound in the surface section is greater than the concentration of the compound in the inner layer. Accordingly, for at least the same reasons discussed above with respect to claim 1, claim 8 is also patentable over Chen '745.

Obviousness-type double patenting

Claims 1-8 and 12 stand rejected under the judicially created doctrine of obvious-type double patenting as being unpatentable over claims 1-13 of U.S. Patent No. 6,589,901 ("the '901 patent"). Claims 1-8 and 12 stand rejected under the judicially created doctrine of obvious-type double patenting as being unpatentable over claims 1-4 of copending application serial No. 10/315,058 ("the '058 application").

Without conceding the propriety of the above double patenting rejections, and in order to further prosecution, a Terminal Disclaimer with respect to the '901 patent is being filed herewith under 37 C.F.R. § 1.321(c). Accordingly, applicants respectfully submit that the obvious-type double patenting rejection with respect to the '901 patent has been overcome.

With respect to the '058 application, applicants respectfully request that this rejection be held in abeyance until one of the '058 application and the present application is allowed, at which time applicants will file a terminal disclaimer in the application which is not allowed with respect to the allowed application, if a terminal disclaimer is warranted.

Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of

papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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